



March 9, 2015

The International Labor Recruitment Working Group (ILRWG)¹ is submitting early input on the definition of recruitment fees in response to the FAR Council's request for early feedback on a draft definition.

The ILRWG is the first coordinated effort to strategically address abuses in international labor recruitment across visa categories. Formed in 2011, the ILRWG is comprised of organizations and academics working in many different industries and with internationally recruited workers from various visa categories.

The ILRWG has reviewed the definition and has some proposed additions to the definition that we are recommending. Thank you for the opportunity to provide early input to the recruitment fee definition.

Definition of Recruitment Fees

(1) Recruitment fees include any and all fees, charges, costs, assessments or other financial obligations associated with the recruiting process regardless of the manner or timing of their imposition or collection, including fees, charges, costs, assessments or other financial obligations assessed against workers in sending, receiving or transit countries. Recruitment fees include, but are not limited to, payments in any form for the following:

- a. submitting applications, making recommendations, recruiting, reserving, committing, soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, or placing potential job applicants, potential employees, persons who may be referred or contracted for employment, and employees;
- b. labor broker services, both one-time and recurring;
- c. pre-departure or post-arrival skills testing, training, or orientation, including, but not limited to, testing of competency or skill level in foreign languages, strength, or machinery use;
- d. covering the cost, in whole or in part, of advertising;

¹ The following organizations and individuals are members of the ILRWG: AFL-CIO; American Federation of Teachers (AFT); Janie Chuang and Jayesh Rathod from the American University, Washington College of Law; Centro de los Derechos del Migrante, Inc.; Coalition to Abolish Slavery and Trafficking (CAST); Department for Professional Employees (DPE); Economic Policy Institute (EPI); Farmworker Justice; Farm Labor Organizing Committee; Jennifer Gordon from Fordham University School of Law; Patricia Pittman and Susan French from George Washington University; Global Workers Justice Alliance; National Domestic Workers Alliance; National Employment Law Project; National Guestworker Alliance, New Orleans Workers' Center for Racial Justice; Polaris; Safe Horizon; Service Employees International Union; Solidarity Center; Southern Poverty Law Center; UniteHere! International Union; Jennifer Hill from the University of Miami, School of Law; and Verité.

- e. certifying labor applications;
- f. processing petitions;
- g. visas and any fee that facilitates an employee obtaining a visa such as appointment, application fees, exit clearances or certificates;
- h. work permits, residence certificates, and security clearances (including renewals);
- i. sending, transit and receiving country government-mandated fees, levies, and insurance, including, but not limited to, border crossing fees;
- j. procuring photographs and identity documentation, including any nongovernmental passport fees;
- k. documentation services including notarization and translation;
- l. fees charged as a condition of access to the job opportunity, including procuring medical examinations and immunizations and obtaining background, reference and security clearance checks and examinations;
- m. pre-employment medical examinations or vaccinations in the sending country;
- n. receiving country medical examinations;
- o. transportation and subsistence costs while in transit, including, but not limited to, airfare or costs of other modes of international transportation, terminal fees, and travel taxes associated with travel from sending country to receiving country and the return journey at the end of the contract;
- p. transportation and subsistence costs from the airport or disembarkation point to the work site;
- q. bribes, tips or tributes;
- r. security deposits and bonds;
- s. the inclusion of a collateral requirement, such as land deeds, in contracts;
- t. contract breach fees;
- u. an employer's recruiters, agents or attorneys, or other notary or legal fees;
- v. insurance;
- w. contributions to worker welfare funds or government provided benefits in sending countries required to be paid by supplier.

(2) Any fee, charge, or cost may be a recruitment fee regardless of whether it is deducted from wages, paid back in wage or benefit concessions, paid back as a kickback, bribe or tribute, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, recruiters, staffing firms (including private employment and placement firms), subsidiaries/affiliates of the employer and any agent or employee of such entities.

- The definition of employees should be expanded to ensure that all of the various forms of subcontracting and recruitment abuses are covered.
- Transportation fees and costs and subsistence costs should be included as many individuals pay high transportation costs that plunge them into debt. It is also common for transportation and subsistence costs in transit to be padded with additional monies that go to the recruiters.
- Bribes and tributes should be added to the list of what constitutes a recruitment fee, as this is a very common type of fee.
- Non-monetary fees, such as land or property that are included as collateral in

contracts, should be included as a recruitment fee because having land or property as collateral coerces internationally recruited workers to stay on the job, despite abusive conditions.

- In some industries, recruitment fees are minimal, but the fees are later recouped in the form of breach of contract fees that force workers to stay on the job and can contribute to human trafficking.